

UNITED STATES DISTRICT COURT

for the
District of Arizona

United States of America

v.

Francisco Gutierrez-Garcia,

a.k.a.: Francisco Javier Gutierrez-Garcia,

a.k.a.: Javier Rabago-Valdez,

(A078 039 876)

Defendant

Case No. 17-337MS

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of August 17, 2017, in the County of Maricopa, in the District of Arizona, the defendant violated Title 8, U.S.C. § 1326(a), an offense described as follows:

Francisco Gutierrez-Garcia, an alien, was found in the United States of America at or near Phoenix, in the District of Arizona, after having been previously denied admission, excluded, deported, and removed from the United States at or near San Ysidro, California, on or about September 29, 2009, and not having obtained the express consent of the Secretary of the Department of Homeland Security to reapply for admission thereto; in violation of Title 8, United States Code, Section 1326(a), and enhanced by (b)(1). I further state that I am a Deportation Officer.

This criminal complaint is based on these facts:

See Attached Statement of Probable Cause Incorporated by Reference Herein

REVIEWED BY: Charles E. Bailey, P.S. for AUSA Sheila Phillips

☒ Continued on the attached sheet.

Complainant's signature

Rene A. Lopez,
Deportation Officer

Printed name and title

Sworn to before me and signed in my presence.

Date: August 21, 2017

Judge's signature

City and state: Phoenix, Arizona

Michelle H. Burns,
United States Magistrate Judge

Printed name and title

STATEMENT OF PROBABLE CAUSE

I, Rene A. Lopez, being duly sworn, hereby depose and state as follows:

1. Your affiant is a Deportation Officer with United States Immigration and Customs Enforcement (ICE). I have learned from direct participation in the investigation and from the reports and communications of other agents and officers the facts recited herein.
2. On August 17, 2017, Francisco Gutierrez-Garcia was booked into the Maricopa County Jail (MCJ) intake facility by the Phoenix Police Department on local charges. While incarcerated at the MCJ, Gutierrez-Garcia was examined by ICE Officer D Wymore who determined him to be a Mexican citizen, illegally present in the United States. On the same date, an immigration detainer was lodged with the MCJ. On August 18, 2017, Gutierrez-Garcia was released from the MCJ and transferred to the Phoenix ICE office for further investigation and processing. Gutierrez-Garcia was held in administrative custody until his criminal and immigration records could be obtained and his identity confirmed.
3. Immigration history checks revealed Francisco Gutierrez-Garcia to be a citizen of Mexico and a previously deported criminal alien. Gutierrez-Garcia was removed from the United States to Mexico at or near San Ysidro, California, on or about September 29, 2009, pursuant to the reinstatement of an order of removal issued by an immigration judge. There is no record of Gutierrez-Garcia in any Department of

Homeland Security database to suggest that he obtained permission from the Secretary of the Department of Homeland Security to return to the United States after his removal. Gutierrez-Garcia's immigration history was matched to him by electronic fingerprint comparison.

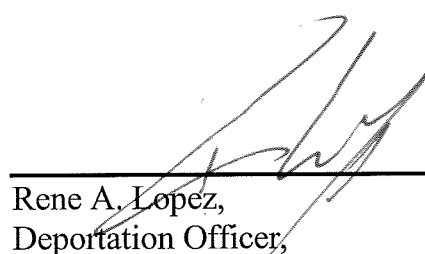
4. Criminal history checks revealed that Francisco Gutierrez-Garcia was convicted of Illegal Re-Entry after Deportation, a felony offense, on November 3, 2008, in the United States District Court, District of Arizona. Gutierrez-Garcia was sentenced to eighteen (18) months' imprisonment and three (3) years' supervised release. Gutierrez-Garcia's criminal history was matched to him by electronic fingerprint comparison.
5. On August 18, 2017, Francisco Gutierrez-Garcia was advised of his constitutional rights. Gutierrez-Garcia freely and willingly declined to make any further statements.
6. For these reasons, this affiant submits that there is probable cause to believe that on or about August 17, 2017, Francisco Gutierrez-Garcia, an alien, was found in the United States of America at or near Phoenix, in the District of Arizona, after having been previously denied admission, excluded, deported, and removed from the United States

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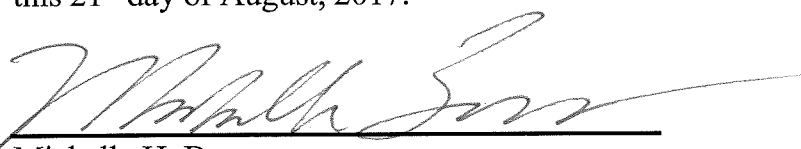
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at or near San Ysidro, California, on or about September 29, 2009, and not having obtained the express consent of the Secretary of the Department of Homeland Security to reapply for admission thereto; in violation of Title 8, United States Code, Section 1326(a), and enhanced by (b)(1).



Rene A. Lopez,
Deportation Officer,
Immigration and Customs Enforcement

Sworn to and subscribed before me
this 21st day of August, 2017.



Michelle H. Burns,
United States Magistrate Judge